



Agricultural Marketing Service

7 CFR Parts 800 and 810

[Doc. No. AMS-AMS-22-0083]

United States Standards for Soybeans

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is revising the United States Standards for Soybeans by removing soybeans of other colors (SBOC) as an official factor. In addition, AMS is revising the table of Grade Limits and Breakpoints for Soybeans to reflect this change.

DATES: This rule is effective September 1, 2023.

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SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 551 *et seq.*, amends regulations, at 7 CFR part 800 and part 810, issued under the United States Grain Standards Act (7 U.S.C. 71-87k), as amended (USGSA). Section 4 of the USGSA (7 U.S.C. 76(a)) grants the Secretary of Agriculture the authority to establish standards for grain regarding kind, class, quality, and condition.

Background

In response to requests from grain industry representatives, AMS published a proposed rule in the **Federal Register** on March 31, 2023 (88 FR 19229), inviting interested parties to comment on the proposed removal of SBOC as an official factor for soybeans.

AMS regularly reviews grain standards to ensure their effectiveness in

meeting the quality requirements of grain moving in the value chain. An increase in the amount of SBOC in officially graded soybean lots over the past two years has led to a decrease in the marketability of U.S. soybeans versus those from other exporting countries. In the proposed rule, AMS invited stakeholders to comment on the effect of removing SBOC as an official grade-determining factor.

Additionally, the proposed rule addressed making the standards effective on an expediated timeline. According to the USGSA, “No standards established or amendments or revocations of standards under this chapter shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner” (7 U.S.C. 76(b)(1)). In the proposed rule, AMS argued that effecting the standards change in a shorter timeframe is in the public’s interest and invited comments to determine if this is the case.

Comment Review

AMS received 14 comments in response to the proposed rule. All 14 comments were in favor of the proposed changes. The comments received were submitted by individuals, small businesses, trade organizations, and producer advocacy groups. Two commenters were national and state organizations representing soybean growers. Another comment was submitted by a large grain trade organization and was cosigned by 43 organizations that represent grain handling, storage, export, processing, as well as seed and feed sectors. The remainder of comments were from individuals representing small producers and trade businesses.

Many comments expressed favor toward the proposed rule, noting that

there is no significant difference in end-use quality between soybeans with differing levels of SBOC. Nine of the comments included this information, in some form or another. Of these, four specifically cited the study that AMS conducted, based on the recommendation of the Grain Inspection Advisory Committee¹.

Five of the comments noted that the inclusion of SBOC, as a grade factor, causes U.S. soybeans to be less competitive in the world export market. Two of these comments also noted that other major soybean producing countries do not use a factor like SBOC to determine soybean quality.

Some comments referenced the negative impact that higher levels of SBOC had on growers and handlers of soybeans. Five commenters mentioned that SBOC, as a grade determining factor, has led to reduced income for growers who failed to meet the standard for U.S. No. 2 Yellow Soybeans on SBOC alone. Two comments noted that higher SBOC levels has led to increased operational cost, such as having to pay for extra inspections or trucking soybeans longer distances to find buyers.

Commenters also asserted that keeping SBOC, as a grading criterion, would be contrary to the stated objectives of the USGSA, which states that the grading standards shall “offer users of such standards the best possible information from which to determine end-product yield and quality of grain” and “reflect the economic value-based characteristics in the end uses of grain” (7 U.S.C. 74(b)(3)).

AMS agrees with the commentors. The comment process is designed to give interested parties an opportunity to present data, views, and

¹ <https://www.ams.usda.gov/sites/default/files/media/FGISSBOCStudy.pdf>

arguments. The needs of the trade in soybeans requires this change for U.S. soybeans to be competitive in the export market, and the available data shows that SBOC does not affect soybean quality. Therefore, AMS is amending the standards for soybeans.

Implementation Period

AMS invited interested parties to comment on whether the proposed changes should go into effect by September 1, 2023. The Agency sought such comments because the USGSA requires that changes to the grain standards may not be made effective within one calendar year of their promulgation “unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner” (7 U.S.C. 76(b)(1)). This provision was put into place to allow industry participants adequate time to adjust and transition to new standards. However, in this case, the soybeans that are more likely to exhibit discolored seedcoats and trigger higher determinations of SBOC in soybean samples are already present in the supply chain. Additionally, based on AMS research showing that the color variation does not materially affect the end use of the soybeans, the Agency did not foresee any deleterious effects to farmers or merchandisers by making the rule effective sooner.

As a result of the request for comments regarding the implementation period, AMS received a comment from a national producer organization that strongly urged the Agency to implement the rule in advance of the 2023-2024 soybean marketing year, which begins on September 1, 2023. All other comments were in support of implementing the proposed rule, as published.

In light of the comment urging AMS to adopt the new standard quickly, the standard “shall become effective less than one calendar year after promulgation thereof” because “the public health, interest, or safety require

that [this standard] become effective sooner [than one year.]” (7 U.S.C. 76(b)(1)). The current standard is unnecessarily increasing costs to the public and farmers, and unnecessarily foreclosing markets for otherwise commercially indistinguishable soybeans. Therefore, AMS will maintain September 1, 2023, as the effective date for implementing the changes contained in this final rule.

AMS Action

AMS is revising 7 CFR part 810, Subpart J, United States Standards for Soybeans to eliminate SBOC as an official factor but retain it in the standards as part of the definition of the class Yellow soybeans. AMS is also revising 7 CFR 800.86 Inspection of shiplot, unit train, and lash barge grain in single lots, paragraph (c)(2), by removing SBOC from Table 17.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Conflict of interests, Exports, Freedom of information, Grains, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

List of Subjects in 7 CFR Part 810

Exports, Grain.

For reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR parts 800 and 810 as follows:

PART 800 – GENERAL REGULATIONS

1. The authority citation for part 800 continues to read as follows:

Authority: 7 U.S.C. 71-87k.

2. Amend § 800.86 by revising Table 17 to paragraph (c)(2) to read as follows:

§ 800.86 Inspection of shiplot, unit train, and lash barge grain in single lots.

* * * * *

(c) * * *

(2) * * *

Table 17 to paragraph (c)(2)

Grade	Maximum limits of --							
	Damaged kernels				Foreign Material (percent)		Splits (percent)	
	Heat- damaged (percent)		Total (percent)					
	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	0.2	0.2	2.0	0.8	1.0	0.2	10.0	1.6
U.S. No. 2	0.5	0.3	3.0	0.9	2.0	0.3	20.0	2.2
U.S. No. 3 ¹	1.0	0.5	5.0	1.2	3.0	0.4	30.0	2.5
U.S. No. 4 ²	3.0	0.9	8.0	1.5	5.0	0.5	40.0	2.7

¹ Soybeans which are purple mottled or stained shall be graded not higher than U.S. No. 3.

² Soybeans which are materially weathered shall be graded not higher than U.S. No. 4.

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PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

3. The authority citation for part 810 continues to read as follows:

Authority: 7 U.S.C. 71-87k.

4. Amend § 810.1602 by revising paragraph (a)(1), removing paragraph (g), and redesignating paragraph (h) as paragraph (g).

The revisions read as follows.

§810.1602 Definition of other terms.

(a) * * *

(1) *Yellow soybeans.* Soybeans that have yellow or green seed coats and which, in cross section, are yellow or have a yellow tinge, and may include not

more than 10.0 percent of soybeans of other colors. Soybeans of other colors are soybeans that have black or bicolored seedcoats, as well as soybeans that have green seedcoats and are green in cross section. Bicolored soybeans will have seed coats of two colors, one of which is brown or black, and the brown or black color covers 50 percent of the seed coats. The hilum of a soybean is not considered a part of the seed coat for this determination.

* * * * *

5. Revise § 810.1603 to read as follows:

§ 810.1603 Basis of determination

Each determination of class, heat-damaged kernels, damaged kernels, and splits is made on the basis of the grain when free from foreign material. Other determinations not specifically provided for under the general provisions are made on the basis of the grain as a whole.

6. Revise § 810.1604 to read as follows:

§ 810.1604 Grades and grade requirements for soybeans

Grading factors	Grades U. S. Nos.			
	1	2	3	4
Maximum percent limits of				
Damaged kernels:				
Heat (part of total)	0.2	0.5	1.0	3.0
Total	2.0	3.0	5.0	8.0
Foreign material	1.0	2.0	3.0	5.0
Splits	10.0	20.0	30.0	40.0
Maximum count limits of				
Other materials:				
Animal filth	9	9	9	9
Castor beans	1	1	1	1
Crotalaria seeds	2	2	2	2
Glass	0	0	0	0
Stones ^{1/}	3	3	3	3
Unknown foreign substance	3	3	3	3
Total ^{2/}	10	10	10	10

U.S. Sample grade are soybeans that:

- (a) Do not meet the requirements for U.S. Nos. 1, 2, 3, or 4; or
- (b) Have a musty, sour, or commercially objectionable foreign odor (except garlic odor); or
- (c) Are heating or otherwise of distinctly low quality.

^{1/} In addition to the maximum count limit, stones must exceed 0.1 percent of the sample weight.

^{2/} Includes any combination of animal filth, castor beans, crotalaria seeds, glass, stones, and unknown foreign substances. The weight of stones is not applicable for total other material.

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